

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 22 2011

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9 **UNITED STATES DISTRICT COURT**  
10 **EASTERN DISTRICT OF WASHINGTON**

11 DENNIS STOVER, and JANE DOE  
12 STOVER, and the marital community  
13 comprised thereof,

14 Plaintiff,

15 v.

16 BISHOP, WHITE, MARSHALL &  
17 WEIBEL, P.S., a Washington Debt  
18 Collection Law Firm d/b/a BISHOP,  
19 WHITE & MARSHALL, P.S., and  
20 PETER OSTERMAN, a Washington  
21 State Debt Collection Attorney, and  
22 HOUSEHOLD FINANCE  
23 CORPORATION III, an Illinois  
24 Corporation,

25 Defendants.

NO. CV-11-110-WFN

PLAINTIFF'S COMPLAINT FOR  
INJUNCTIVE RELIEF FOR  
VIOLATIONS OF THE  
CONSUMER PROTECTION ACT  
AND THE FAIR DEBT  
COLLECTION PRACTICES ACT,  
*INTER ALIA*

26 COME NOW, Plaintiffs, DENNIS STOVER and JANE DOE STOVER,  
by and through their counsel, ROBERT MITCHELL, and complain against the  
Defendants as follows:

PLAINTIFFS' COMPLAINT

1

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**I. STATEMENT OF THE CASE**

This is an action for injunctive relief to prevent further harm to Plaintiffs and to prevent future harm to other Washington consumers and debtors.

**II. PARTIES**

2.1 Plaintiffs, DENNIS STOVER and JANE DOE STOVER, are residents of Spokane County, Washington.

2.2 Plaintiffs obtained and used credit from Household Finance Corporation III, primarily for personal, family, and household purposes.

2.3 Plaintiffs are therefore “debtor[s]” as defined by the Fair Debt Collection Practices Act (FDCPA), and the Collection Agency Act (CAA), and “consumer[s]” as defined by the Consumer Protection Act (CPA), and Plaintiffs acted as “debtor[s]” and “consumer[s]” at all times relevant to this litigation.

2.4 Defendant, BISHOP, WHITE, MARSHALL & WEIBEL, P.S., a/k/a BISHOP, WHITE & MARSHALL, P.S., (hereinafter “Defendant” or “BWM”) is a debt collection law firm which regularly collects debts owed to others, and which conducts business in this state pursuant to UBI NO. 600629409.

2.5 Defendant is therefore a “debt collector” as defined by the FDCPA, a “collection agency” as defined by the CAA, a “business” as defined by the CPA, and Defendant acted as such at all times relevant to this complaint.

2.6 Defendant, PETER OSTERMAN, is a debt collection attorney who works for Bishop, White, Marshall & Weibel, P.S.

2.7 Defendant OSTERMAN practices law in Washington State pursuant to WSBA No. 27803.

2.8 Defendant OSTERMAN regularly collects debts owed to others.

1       2.9 Defendant OSTERMAN is therefore a “debt collector” as defined by  
2 the FDCPA, a “collection agency” as defined by the CAA, a “business” as  
3 defined by the CPA, and Defendant acted as such at all times relevant to this  
4 complaint.

5       2.10 Defendant, HOUSEHOLD FINANCE CORPORATION III, is a  
6 Delaware Corporation, with its principal place of business in Illinois, and which  
7 conducts business in Washington State under UBI NO. 600584035.

8       2.11 Defendant, HOUSEHOLD FINANCE CORPORATION III, is a  
9 finance company, a “business” as defined by the CPA, and Defendant acted as  
10 such at all times relevant to this complaint.

11       2.12 Defendant, HOUSEHOLD FINANCE CORPORATION III, is NOT  
12 a “National Bank” and is therefore subject to the laws of the state of Washington.

13       2.13 All Defendants made attempts to collect the debt at the heart of this  
14 litigation.

### 15                   **III. JURISDICTION AND VENUE**

16       3.1 Jurisdiction and Venue in the United States District Court, Eastern  
17 District of Washington, are appropriate where this dispute involves predominant  
18 issues of federal law, and where all acts at issue and described herein occurred in  
19 this district, and where the injury to Plaintiffs occurred in this district, and where  
20 Plaintiffs are residents of this district, and where the Defendants conduct  
21 substantial business in this district. (28 U.S.C. §1332; 28 U.S.C. §1391(b); and  
22 28 U.S.C. §1331).

23       3.2 Defendants are liable unto Plaintiffs pursuant to the provisions of the  
24 Fair Debt Collection Practice Act, 15 U.S.C. §1692, et. seq., as well as other

1 applicable federal and state laws. Defendants are also liable unto Plaintiffs  
2 pursuant to the laws of the State of Washington, which claims may be brought  
3 under the Supplemental Jurisdiction of this Court. 28 U.S.C. 1367, et seq.

#### 4 **IV. FACTS**

5 4.1 Plaintiffs incurred a debt to Defendant, Household Finance  
6 Corporation III, primarily for personal, household, and family purposes.

7 4.2 Plaintiffs are therefore consumers and debtors.

8 4.3 Plaintiffs defaulted on the Household Finance account.

9 4.4 Household Finance therefore assigned the defaulted account to  
10 Defendant, BWM for collections.

11 4.5 Defendants, BWM and OSTERMAN filed a lawsuit in Spokane  
12 County Superior Court in attempt to collect the defaulted account.

13 4.6 The lawsuit is entitled "Household Finance Corporation III vs.  
14 Dennis Stover...."

15 4.7 The Spokane County Superior Court Cause Number is 10205225-3.

16 4.8 Defendants filed for Summary Judgment on or about January 21,  
17 2011.

18 4.9 Defendants' attached two conflicting affidavits to the Motion for  
19 Summary Judgment.

20 4.10 The first affidavit, signed by Dinita Brazell under penalty of perjury,  
21 states in pertinent part: "3) **That the original contract in this matter has been**  
22 **destroyed or lost.**

23 4.11 The second affidavit, signed by Patrick Cox under penalty of perjury  
24 states: "**Attached hereto is a copy of a Personal Credit Line Agreement....**"

1 4.12 Not only was no Personal Credit Line Agreement attached to  
2 Defendants' motion, but Defendants actually provided an affidavit stating that the  
3 agreement was lost or destroyed.

4 4.13 The "lost or destroyed" affidavit was signed on January 21, 2009.

5 4.14 The "copy attached" affidavit was signed on February 17, 2009.

6 4.15 Therefore, the affiant claiming to have the agreement and personal  
7 knowledge thereof, actually did so almost an entire month after the other affiant  
8 swore that the document was either lost or destroyed.

9 4.16 The "copy attached" affidavit is important because it leads the Court  
10 to believe that the affiant has personal knowledge of the terms of the account by  
11 virtue of reviewing the agreement.

12 4.17 The affiant states: "Attached hereto is a copy of a Personal Credit  
13 Line Agreement under which the defendant(s), DENNIS STOVER and DOE I  
14 became obligated on November 30, 1998, together with copies of other pertinent  
15 documents.

16 4.18 Only then does the affiant set forth the terms of the agreement, the  
17 balance, the principal, the default information, etc.

18 4.19 Defendants intentionally structured the affidavit in such a manner as  
19 to manipulate the Court into believing that the affiant has more information and  
20 knowledge about the account than the affiant actually has.

21 4.20 The affidavit states in pertinent part:

22  
23 I, PATRICK COX, being first duly sworn, on oath deposes and says: I  
24 am the Recovery Specialist for HOUSEHOLD FINANCE  
25 CORPORATION III, a corporation. I make this affidavit on the basis  
26 of my personal knowledge and a review of the computer records

maintained by HOUSEHOLD FINANCE CORPORATION III with respect to the account at issue. All such records are maintained in the regular course of business, at or near the time of the events recorded. I am a custodian of those records and can testify as to their authenticity. HOUSEHOLD FINANCE CORPORATION III is a licensee under the Consumer Loan Act, RC 31.04. Affiant is informed and believes, and therefore alleges, that at the time of service and filing of the Summons and Complaint herein, and at all times since, said Defendant(s) is/are not a person in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act. Affiant further states that the defendants are not infants nor incompetent persons. **Attached hereto is a copy of a Personal Credit Line Agreement under which the defendant(s), DENNIS STOVER and DOE I became obligated on November 30, 1998, together with copies of other pertinent documents. Under the terms of the Personal Credit Line Agreement defendants, DENNIS STOVER and DOE I, was/were to pay the sum of \$6,012.83 plus interest at the rate of 12% per annum in monthly installments.** Also attached is a transaction history showing charges and payments to the account. No payments have been made since August 26, 2008 and defendant(s) is/are now in default under the terms of the Personal Credit Line Agreement. As of January 02, 2009, the principal balance due and owing on the account is \$6,012.83, plus interest totaling \$261.81. Interest continues to accrue thereafter at \$1.98 per diem.

4.21 Despite the fact that the Patrick Cox affidavit was signed under penalty of perjury, much of the information contained therein is an obvious fabrication.

4.22 Plaintiffs believe and therefore aver that both affiants, Patrick Cox and Dinita Brazell, are "robo-signers."

4.23 Plaintiffs believe and therefore aver that both affidavits are form affidavits. (*See terms like: "Defendant(s) is/are" and "defendant(s) was/were"*).

1 4.24 Plaintiffs believe and therefore aver that Patrick Cox did not review  
2 any written or electronic account information prior to signing his affidavit.

3 4.25 Plaintiffs believe and therefore aver that all documents attached to  
4 the Patrick Cox affidavit were attached by someone other than Patrick Cox.

5 4.26 Plaintiffs believe and therefore aver that all documents attached to  
6 the Patrick Cox affidavit were attached after Patrick Cox signed the affidavit.

7 4.27 Plaintiffs believe and therefore aver that Dinita Brazell signed her  
8 affidavit without reviewing any written or electronic account information.

9 4.28 Plaintiffs believe and therefore aver that any and all information  
10 contained in or attached to the Dinita Brazell affidavit was input by someone  
11 other than Dinita Brazell.

12 4.29 Plaintiffs believe and therefore aver that Defendants mass produce  
13 similar documents and affidavits to mass litigate these types of cases.

14 4.30 Defendants use very little quality control.

15 4.31 Any mistakes occurring in the process are due to the fact that  
16 Defendants mass produce these documents and lawsuits, and have nothing to do  
17 with a bona fide error or reasonable mistake.

18 4.32 As evidenced by the fact that the pleadings contain obvious  
19 conflicting information, Defendants, BWM and OSTERMAN, failed to conduct a  
20 reasonable investigation into the facts of this matter prior to filing pleadings with  
21 the Court.

22 4.33 Defendants, BWM and OSTERMAN, either intentionally or  
23 unwittingly as agents for Household Finance, filed contradictory documents with  
24 the Court, which were designed to mislead the Court.

1 4.34 Defendants' pleadings and attachments thereto completely  
2 misrepresent the character and status of the debt.

3 4.35 Defendants' pleadings and attachments thereto contain intentionally  
4 deceptive and misleading facts in attempt to mislead and deceive the Court.

5 4.36 Plaintiffs believe and therefore aver that Defendants' collection  
6 violations will continue if this Court does not issue injunctive relief to protect  
7 Plaintiffs and other Washington consumers.

8 4.37 Plaintiffs were injured by Defendants' collection actions where  
9 Plaintiffs have been forced to pay an attorney to defend Defendants' frivolous  
10 Motion for Summary Judgment.

11 4.38 Plaintiffs also suffered frustration and anxiety as a result of  
12 Defendants' frivolous collection actions.

### 13 **V. FAIR DEBT COLLECTION PRACTICES ACT VIOLATION**

#### 14 **(Application of the Statute)**

15 5.1 Plaintiffs re-allege paragraphs 1 through 4, inclusive as though fully  
16 set forth herein.

17 5.2 Pursuant to the Fair Debt Collection Practices Act (FDCPA), a  
18 "consumer" or "debtor" means "any natural person obligated or allegedly  
19 obligated to pay any debt." 15 U.S.C. §1692a(3).

20 5.3 Pursuant to the FDCPA, the term "debt" means: "any obligation or  
21 alleged obligation of a consumer to pay money arising out of a transaction in  
22 which the money, property, insurance, or services which are the subject of the  
23 transaction are primarily for personal, family, or household purposes, whether or  
24 not such obligation has been reduced to judgment." 15 U.S.C. §1692a(5).



1       5.4 Pursuant to the FDCPA, the term “debt collector” means: “any  
2 person who uses any instrumentality of interstate commerce or the mails in any  
3 business the principal purpose of which is the collection of any debts, or who  
4 regularly collects or attempts to collect, directly or indirectly, debts owed or due  
5 or asserted to be owed or due another.” 15 U.S.C. §1692a(6).

6       5.5 Defendant, BWM is, without a doubt, a “debt collector” as defined  
7 by the FDCPA.

8       5.6 The FDCPA also applies to attorneys who “regularly” attempt to  
9 collect third party debts. (Jenkins v. Heintz, 124 F.3d 824, 514 U.S. 291  
10 (1995)(see also Fox v. Citicorp Credit Servs., Inc., 15 F.3d 1507 (9<sup>th</sup> Cir. 1994)).

11       5.7 An attorney is a “collection attorney” or “debt collector” and  
12 “regularly” collects the debts of another if the volume of his collection cases is  
13 high, regardless of what percent of his practice the collection cases actual  
14 represent. (See Garrett v. Derbes, 110 F.3d 317 (5<sup>th</sup> Cir. 1997); holding that an  
15 attorney who collected against 639 different individuals in a nine-month period  
16 satisfied the requirement that he “regularly” collected debts for another although  
17 those 639 cases only represented .5% of his practice. He was regularly collecting  
18 consumer debts because that volume was great enough to meet the threshold.).

19       5.8 Defendant, attorney Peter Osterman, is a “debt collector” or  
20 “collection attorney” by virtue of the volume of collection cases he files.

21       5.9 Therefore, the FDCPA applies in this case because the Plaintiffs are  
22 “debtors,” the debt at the heart of this case is a “consumer debt,” which arose  
23 from a transaction in which the services are primarily for personal, family, or  
24 household purposes, and the Defendants, BW and OSTERMAN are “debt  
25 collectors” which attempted to collect a debt owed to a third party.

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**VI. FIRST CAUSE OF ACTION**

**Fair Debt Collection Practices Act Violation**  
**(False, Deceptive, or Misleading Representations)**

*As to Defendants BWM and OSTERMAN only*

6.1 Plaintiffs re-allege paragraphs 1 through 5, inclusive as though fully set forth herein.

6.2 The Fair Debt Collection Practices Act (FDCPA) states in pertinent part: "A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt." 15 U.S.C. §1692e.

6.3 The act further states that the following conduct is a violation of section 1692e: "The false representation of the character, amount, or legal status of a debt..." 15 U.S.C. §1692e(2).

6.4 The act further states that the following conduct is a violation of section 1692e: "The threat to take any action that cannot legally be taken or that is not intended to be taken." 15 U.S.C. §1692e(5)

6.5 The act further states that the following conduct is a violation of section 1692e: "The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer." 15 U.S.C. §1692e(10).

6.6 The FDCPA further states: "A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt." 15 U.S.C. §1692f.

6.7 In this case, Defendants filed a Motion for Summary Judgment.

1       6.8   Plaintiffs, as the least sophisticated debtors, understood this motion  
2 to mean that Defendants intended to obtain a judgment to lien, levy, and garnish  
3 Plaintiffs' income and assets.

4       6.9   Plaintiffs therefore paid an attorney to defend the motion.

5       6.10 However, Defendants did not have the present legal or contractual  
6 right to obtain a Summary Judgment against Plaintiffs because Defendants'  
7 motion was based on untruths, half truths, and misstatements of fact contained in  
8 two conflicting affidavits.

9       6.11 To be certain, without providing affidavits supporting the debt,  
10 Defendants stood absolutely no chance whatsoever of obtaining a summary  
11 judgment on this debt from Spokane County Superior Court Judge Maryann  
12 Moreno.

13       6.12 Therefore, Defendants, as they do in thousands of cases, dummied  
14 up some affidavits from individuals professing to be records custodians with  
15 personal knowledge of the account.

16       6.13 To Defendants' surprise, they dummied up too many affidavits and  
17 the information contained in one affidavit completely contradicted the  
18 information contained in another affidavit.

19       6.14 In fact, one affidavit states that the credit agreement was lost or  
20 destroyed, while the following month another affiant professes to have the  
21 agreement and personal knowledge thereof.

22       6.15 Moreover, Plaintiffs intend to demonstrate that neither affiant had  
23 any personal knowledge of the account prior to signing the affidavits.

24       6.16 In fact, Plaintiffs expect to prove that Defendants' affiants are robo-

1 signers who are presented with only an affidavit and instructed to sign the  
2 affidavits professing to have personal knowledge of the entire account, despite  
3 not having or reviewing any information about the account before the affidavits  
4 are signed.

5 6.17 Plaintiffs expect to prove that the supporting documents are attached  
6 to the affidavit by someone other than the affiant after the affidavit is signed.

7 6.18 Therefore, in this case, Defendants attached sworn affidavits to their  
8 motion for summary judgment which obviously misrepresented the debt and  
9 attempted to deceive the State Superior Court into believing that Defendants  
10 could prove the debt.

11 6.19 Defendants therefore violated the statute by falsely representing the  
12 character and legal status of the debt.

13 6.20 Defendants therefore violated the statute by threatening to take legal  
14 action which could not legally be taken.

15 6.21 Defendants therefore violated the statute by the use of false  
16 representations and deceptive means to attempt to collect the debt.

17 6.22 Defendants therefore violated the statute by the use of unfair or  
18 unconscionable means to collect or attempt to collect the debt.

19 6.23 Plaintiffs were injured by Defendants' actions.

20 6.24 Defendants' actions were a direct and proximate cause of Plaintiffs'  
21 injuries and damages.

22 6.25 Defendants' actions were intentional, willful, wanton, unfair,  
23 unconscionable, and outrageous.

24 6.26 Defendants' actions illustrate why an injunction is necessary to  
25 protect Plaintiffs and other Washington debtors from similar harm.

**VII. SECOND CAUSE OF ACTION**

**(State Collection Agency Act Violation)**

*As to Defendants BWM and OSTERMAN only*

7.1 Plaintiffs re-allege paragraphs 1 through 6, inclusive as though fully set forth herein.

7.2 The Washington Collection Agency Act states that it is an unfair practice to: "Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made." RCW 19.16.250(15).

7.3 In this case, Defendants filed a Motion for Summary Judgment, which was entirely based on hearsay evidence, which as it turned out was fraudulent and perjured.

7.4 To be certain, without a valid affidavit supporting the documents submitted with Defendants' Motion for Summary Judgment, there is no possible way that Spokane County Superior Court Judge, Maryann Moreno, would have ever issued a Summary Judgment in favor of Defendants.

7.5 Therefore, Defendants submitted conflicting affidavits containing obvious perjured testimony in attempt to collect the debt.

7.6 Defendants therefore violated the statute by threatening Plaintiffs with a Summary Judgment when Defendants had absolutely no legal right to judgment based on the information contained in Defendants' motion, which was only supported by perjured hearsay affidavits.

7.7 Plaintiffs were injured by Defendants' actions.

7.8 Defendants' actions are a direct and proximate cause of Plaintiffs' injuries.

1 7.9 Defendants' actions were intentional, willful, wanton, unfair,  
2 unconscionable, and outrageous.

3 7.10 Defendants' actions illustrate why an injunction is necessary to  
4 protect Plaintiff and other Washington debtors from similar harm.

5 **VIII. THIRD CAUSE OF ACTION**

6 **(Per Se Consumer Protection Act Violation)**

7 ***As to Defendants BWM and OSTERMAN only***

8 8.1 Plaintiffs re-allege paragraphs 1 through 7, inclusive as though fully  
9 set forth herein.

10 8.2 Washington's CPA states: "Unfair methods of competition and  
11 unfair or deceptive acts or practices in the conduct of any trade or commerce are  
12 hereby declared unlawful." RCW 19.86.020.

13 8.3 The Washington CPA applies to the actions at issue herein because  
14 the Plaintiffs are "consumers" and the Defendants are "businesses," the  
15 complaint involves conduct which occurred in the course of trade/commerce, the  
16 Plaintiffs were damaged in their property by Defendants' actions, and the  
17 complaint involves a matter of public interest which is capable of repetition and  
18 will likely affect other consumers in this state.

19 8.4 Additionally, the Washington Collection Agency Act prohibits  
20 threatening a debtor with any action the collector either cannot take, or does not  
21 intend to take at the time the threat is made. RCW 19.16.250(15).

22 8.5 The Collection Agency Act states that such collection violations are  
23 *per se* violations of the Consumer Protection Act. RCW 19.16.440.

24 8.6 In this case, Defendants violated the above-cited sections of the  
25 Collection Agency Act.

1 8.7 Therefore, Defendants' actions represent *per se* violations of the  
2 Washington State Consumer Protection Act.

3 8.8 Plaintiffs were injured by Defendants' actions.

4 8.9 Defendants' actions are a direct and proximate cause of Plaintiffs'  
5 injuries.

6 8.10 Defendants' actions were intentional, willful, wanton, unfair,  
7 unconscionable, and outrageous.

8 8.11 Defendants' actions illustrate why an injunction is necessary to  
9 protect Plaintiffs and other Washington debtors from similar harm.

10 **IX. FOURTH CAUSE OF ACTION**

11 **(Consumer Protection Act Violation)**

12 *As to ALL Defendants*

13 9.1 Plaintiffs re-allege paragraphs 1 through 8, inclusive as though fully  
14 set forth herein.

15 9.2 Washington's CPA states: "Unfair methods of competition and  
16 unfair or deceptive acts or practices in the conduct of any trade or commerce are  
17 hereby declared unlawful." RCW 19.86.020.

18 9.3 The Washington CPA applies to the actions at issue herein because  
19 the Plaintiffs are "consumers" and the Defendants are "businesses," the  
20 complaint involves conduct which occurred in the course of trade/commerce, the  
21 Plaintiffs were damaged in their property by Defendants' actions, and the  
22 complaint involves a matter of public interest which is capable of repetition and  
23 will likely affect other consumers in this state.

24 9.4 To determine what constitutes an "unfair" or "deceptive" act or  
25 practice under Washington's CPA, Washington courts look to the various federal

1 statutes dealing with similar matters. Lightfoot v. MacDonald, 86 Wn.2d 331,  
 2 335, 544 P.2d 88 (1976). The court in Lightfoot stated:

3 ...we are directed by the statute to look to "the various federal  
 4 statutes dealing with the same or similar matters" in resolving  
 5 questions which arise under the state act.

6 Lightfoot at 335.

7 9.5 One such federal statute which Washington courts look to in  
 8 determining if a particular act is "unfair" or "deceptive" under Washington's  
 9 CPA, is the Federal Trade Commission Act, after which Washington's CPA was  
 10 modeled, and which states: "Unfair methods of competition in or affecting  
 11 commerce, and unfair or deceptive acts or practices in or affecting commerce, are  
 12 hereby declared unlawful." 15 U.S.C. §45(a)(1).

13 9.6 The Fair Debt Collection Practices Act, which proscribes specific  
 14 unfair and deceptive acts when collecting debts is another statute that courts have  
 15 examined to determine if a specific act is unfair or deceptive in violation of the  
 16 state Consumer Protection Act. 15 U.S.C. §1692 et seq.

17 9.7 In addition to examining federal statutes to determine if a specific  
 18 act is unfair or deceptive in violation of the state CPA, Washington Courts also  
 19 give great weight to Federal Trade Commission (FTC) interpretations of conduct  
 20 that is unfair or deceptive. Testo v. Dunmire Oldsmobile, Inc., 554 P.2d 349  
 21 (1976) citing Tradewell Stores, Inc. v. T. B. & M., Inc., 7 Wn. App. 424, 500  
 22 P.2d 1290 (1972); (examining cases arising under the Federal Trade Commission  
 23 Act), 15 U.S.C. §45; and RCW 19.86.920.

24 9.8 In Testo, the court stated:



1 The courts of this state are specifically directed to "be guided  
2 by" federal court interpretations of those various federal statutes  
3 after which our Consumer Protection Act is patterned.

4 Testo at 350.

5 9.9 Based on the above federal and state statutes and case law, this  
6 Court should use the FDCPA standards of unfair and deceptive practices to  
7 determine if the Defendants violated Washington's CPA in the case at hand.

8 9.10 Under the FDCPA, it is an unfair and/or deceptive act/practice to  
9 1) Use false, deceptive, or misleading representations or means in connection  
10 with the collection of any debt; 2) Falsely represent the character, amount, or  
11 legal status of a debt; 3) Threaten to take any action that cannot legally be taken;  
12 4) Use any false representation or deceptive means to collect or attempt to collect  
13 any debt; 5) Use unfair or unconscionable means to collect or attempt to collect  
14 any debt.

15 9.11 In this case, Defendants filed a Motion for Summary Judgment, and  
16 threatened to obtain a judgment against Plaintiffs, by using fraudulent and  
17 perjured information. Defendants submitted two conflicting affidavits with the  
18 motion, both of which are form affidavits signed by robo-signers without any  
19 personal knowledge of the account. Not only were Defendants' actions a fraud  
20 upon Plaintiffs, but Defendants attempted to commit a fraud upon the Court by  
21 submitting obviously false pleadings, which Defendants either knew or should  
22 have known to be false upon conducting a reasonable inquiry into the facts of the  
23 case.

24 9.12 Defendant, Household Finance, regularly engages robo-signers to  
25 sign form affidavits.

1           9.13 Defendants, Bishop, White & Marshall, and attorney Osterman, are  
2 aware of the form affidavits and robo-signers and regularly use the form  
3 affidavits to collect debts anyway.

4           9.14 The discrepancies in this case have nothing to do with reasonable  
5 errors or omissions. The discrepancies have everything to do with Defendants'  
6 mass production approach to debt collection lawsuits. This approach involves  
7 filing thousands of collection lawsuits in Washington State each year and using  
8 form affidavits and robo-signers designed to move the debt collection lawsuit  
9 machine along.

10           9.15 Many other consumers will be adversely affected if this Court fails  
11 to require Defendants to change their business model.

12           9.16 Other honest debt collectors will be competitively disadvantaged if  
13 this Court fails to require Defendants to change their business model.

14           9.17 Where Defendants' collection practices are unfair and deceptive acts  
15 or practices in violation of the FDCPA and state collection statute, Defendants'  
16 collection attempts are likewise unfair acts or practices under this state's  
17 Consumer Protection Act.

18           9.18 Plaintiffs were injured by Defendants' actions.

19           9.19 Defendants' actions are a direct and proximate cause of Plaintiffs'  
20 injuries.

21           9.20 Defendants' actions were intentional, willful, wanton, unfair,  
22 unconscionable, and outrageous.

23           9.21 Defendants' actions illustrate why an injunction is necessary to  
24 protect Plaintiff and other Washington debtors from similar harm.

**X. FIFTH CAUSE OF ACTION**

**(Outrage)**

10.1 Plaintiffs re-allege paragraphs 1 through 9, inclusive as though fully set forth herein.

10.2 Defendants should be held liable for Outrage and associated damages under the FDCPA, regardless of state law requirements for the tort of outrage. (See Grassley v. Debt Collectors, Inc., District of Oregon (1992)).

10.3 In this case, Defendants' collection violations were extreme, outrageous, unconscionable, intentional, willful and wanton, and served no other purpose but to defraud the Court and annoy, harass, intimidate, and intentionally cause severe mental and emotional distress with the intent of coxing Plaintiffs into paying this disputed debt.

10.4 Defendants' conduct caused Plaintiffs extreme mental and emotional distress.

10.5 Defendants' conduct caused undue stress, anxiety, frustration, and humiliation.

10.6 Defendants' conduct was a direct and proximate cause of Plaintiffs' injuries.

10.7 Defendants' actions were intentional, willful, wanton, unfair, unconscionable, and outrageous.

10.8 Defendants' actions illustrate why an injunction is necessary to protect Plaintiff and other Washington debtors from similar harm.

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1 **XI. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for judgment to be entered against the  
3 Defendants as follows:

4 A. For an Injunction preventing Defendants from ever again using form  
5 affidavits or robo-signers in attempt to collect a debt in the state of Washington,  
6 pursuant to RCW 19.86.090, and Scott v. Cingular Wireless, 160 Wn.2d 843, 161  
7 P.3d 1000 (2007); Hockley v. Hargitt, 82 Wash.2d 337, 349-50, 510 P.2d 1123  
8 (1973); Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 105  
9 Wash.2d 778, 783-84, 719 P.2d 531 (1986); Lightfoot v. MacDonald, 86  
10 Wash.2d 331, 335-36, 544 P.2d 88 (1976);

11 B. For an Injunction preventing Defendant from ever again collecting  
12 upon the subject debt, pursuant to RCW 19.86.090, and Scott v. Cingular  
13 Wireless, 160 Wn.2d 843, 161 P.3d 1000 (2007); Hockley v. Hargitt, 82 Wash.2d  
14 337, 349-50, 510 P.2d 1123 (1973); Hangman Ridge Training Stables, Inc. v.  
15 Safeco Title Ins. Co., 105 Wash.2d 778, 783-84, 719 P.2d 531 (1986); Lightfoot  
16 v. MacDonald, 86 Wash.2d 331, 335-36, 544 P.2d 88 (1976);

17 C. For an Injunction preventing the licensee, the customer of the  
18 licensee, or any other person who may hereafter legally seek to collect on this  
19 claim, from ever being allowed to recover any interest, service charge, attorneys'  
20 fees, collection costs, delinquency charge, or any other fees or charges otherwise  
21 legally chargeable to the debtor on such claim, pursuant to RCW 19.16.450,  
22 RCW 19.86.090, and Scott v. Cingular Wireless, 160 Wn.2d 843, 161 P.3d 1000  
23 (2007); Hockley v. Hargitt, 82 Wash.2d 337, 349-50, 510 P.2d 1123 (1973);  
24 Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 105 Wash.2d 778,

783-84, 719 P.2d 531 (1986); Lightfoot v. MacDonald, 86 Wash.2d 331, 335-36, 544 P.2d 88 (1976);

D. For Actual and Compensatory damages in an amount to be proven at trial, pursuant to RCW 19.86 et seq., 15 U.S.C. §1692 et seq., and various common law claims;

E. For Intentional Infliction of Emotional Distress Damages in the amount of \$2,000, pursuant to 15 U.S.C. §1692 et seq.; and Jackson v. Peoples Credit Union, 604 P.2d 1025 (1979); and Baker v. G.C. Servs. Corp., 677 F.2d 775 (9th Cir. 1982);

F. For Statutory damages in the amount of \$2,000 pursuant to 15 U.S.C. §1692, et seq.;

G. For Incidental and Consequential damages in an amount to be proven at trial;

H. For treble any "actual" damages up to the amount of \$25,000, pursuant to RCW 19.86, et seq.;

I. For costs and reasonable attorney's fees in an amount to be proven at trial pursuant to 15 U.S.C. §1692 et seq. and RCW 19.86, et seq.;

J. For interest on the above amounts as authorized by law;

K. For other relief as the Court deems just and equitable; and

L. For leave to amend this complaint as needed and as required.

## **XII. REQUEST FOR TRIAL BY JURY**

Plaintiffs hereby request a trial by jury pursuant to U.S. Const. Amend. 7, Fed. R.Civ.Proc. 38.

1 Dated this 21st day of March, 2011.

2  
3 Respectfully submitted,

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